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and which is the leading case on the constitutionality of the Act, was decided only in May of this year. Furthermore, the whole Act fairly bristles with doubtful questions that will necessarily remain purely speculative until presented to the courts for determination. Mr. Thurber, to offset this dearth of judicial decision directly in point, has included copious citations of decisions from the closely related field of inheritance tax law. He has also incorporated the Regulations and Decisions of the Bureau of Internal Revenue. While helpful, such rulings will scarcely be accepted by lawyers as *ex cathedra*.

At page 61 of his book the author apparently intimates that *Blum v. Wardell* (Dist. Ct., N. D. Cal. Rudkin, D. J., 1920) 270 Fed. 309, is authority for the proposition that the wife no longer takes her share of the community property in this state as heir. Even though the Bureau of Internal Revenue accepts that decision as final authority for the non-taxability of the wife's interest in the community under the Federal estate tax, it is highly doubtful whether the legislation involved in the case changes the character of the wife's interest in the community property in this state. An enactment in a transfer tax law, expressly limited to "the purposes of this Act," could hardly be taken to work a change in the general property law of the state.

*T. W. Dahlquist.*

A TREATISE ON THE LAW OF NATIONAL AND STATE BANKS. By H. W. Magee. Matthew Bender & Company, Albany, N. Y., 1921. pp. lxxxv, 1138.

In a review of the first edition of this work comment was made on the fact that the book was not a paraphrase or digest with an abundant citation of authority on self-evident rules, but was an original contribution with individual comment. The lawyer will find scanty discussion of some problems which interest him in view of the fact that they come before the courts, for example, trust receipts, escheat of bank deposits, "blue sky" laws, but he will find a full discussion of practical questions in banking, such as the amendment of bank charters, the duties of a paying teller, tests for detecting the genuineness of coin and notes, the education a bank president should have, the advisability of restriction of loans to officers, etc. The merit of a book of this kind is that it gives so much practical law that cannot be found in the reports. The liability of the stockholders of a California corporation would have been made clearer by a reference to *Gardiner v. Bank of Napa*, 160 Cal. 577, 117 Pac. 667.

*A. M. Kidd.*

FEDERAL CRIMINAL LAW AND PROCEDURE. By Elijah N. Zoline. Little, Brown & Company, Boston, 1921. pp. Vol. I, pp. cxxxi, 505; Vol. II, xi, 730; Vol. III, vii, 783.

In the first volume is the entire body of the Federal law relating

to criminal procedure; in Vol. II, the Federal criminal code and other offenses against the United States. In Vol. III are forms for various offenses, including writs, instructions, charges, etc., carefully culled from specimens in the offices of the clerks of the different circuits. It is decidedly a book written for practitioners by a practitioner, as distinguished from a digest textbook by a professional compiler. The decisions are up to date and generally accurate to the point cited. When we remember that the Federal criminal law and procedure is a law unto itself, not following the local state practice, it is apparent that the author has placed the profession under great obligations. These volumes contain the complete material that otherwise could not be reached except by selection from a large library. They make readily accessible the legislation of Congress and the pertinent decisions of the Federal courts. They furnish the starting point for the lawyer trying a Federal criminal case, and carry him a considerable distance along his journey. Where so much has been done well, it seems unfair to ask for more. The author, however, too often accepts uncritically the pronouncements of the Supreme Court of the United States. The qualifications in later decisions are not always pointed out, nor the criticisms of Federal decisions. These are important to the practitioner, as more than once they have induced that court to modify its previous rulings. As an example, on page 262 it is stated that the presumption of innocence "is an instrument of proof created by law in favor of one accused," citing *Coffin v. United States*, 156 U. S. 432, 39 L. Ed. 481, 15 Sup. Ct. 394. The erroneous nature of this statement has often been pointed out and in *Holt v. United States*, 218 U. S. 253 in affirming a ruling of the trial court refusing to give an instruction, that the presumption of innocence is evidence in the defendant's favor, the Supreme Court said such a statement has a tendency to mislead. On page 197 the statement is made that "A pardon releases the punishment and blots the guilt out of existence. . . ." The fallacies of this extreme statement have been shown by Professor Williston, 28 *Harvard Law Review* 647; it is inconsistent, as is there pointed out, with *Burdick v. United States*, 236 U. S. 79, where the decision of the court is based on the theory that the acceptance of a pardon is a confession of guilt. On page 305 it is stated that a "witness who does not believe in divine punishment for a false oath is, under the common law, incompetent to testify." It is improbable that the Supreme Court of the United States will continue this disqualification, as it has already overruled its former decisions by holding that a conviction of crime is no longer a disqualification. *Rosen v. United States*, 245 U. S. 467; 62 L. Ed. 406, 38 Sup. Ct. 148. On page 92 the statement that "It is too late to make this application [for a return of papers legally seized] at the trial or after trial commenced," should be modified in those cases where no demand for return could reasonably have been made at an earlier date. The qualifica-

tions on *Boyd v. United States*, 116 U. S. 616, and the storm of criticism which *Bram v. United States*, 168 U. S. 532, evoked, are not directly mentioned. It is certainly possible that the progressive modern Supreme Court will reverse those rulings, as it did in some of the earlier cases just mentioned. At any rate, it would be useful ammunition for the lawyer.

It must not be assumed that the author does not give the profession the benefit of his valuable opinion. On page 413 the doubt is raised whether the attorney general is the proper person to be invested with the vast powers of the welfare and parole of federal prisoners. In fact, it might be added that the powers of the attorney general over the entire federal judiciary is not in all respects fortunate.

There is a good introduction by the Hon. Henry Wade Rogers, judge of the United States Circuit Court of Appeals, Second Circuit. Judge Rogers gives a history of the development of the federal judiciary and some interesting statistics. The need for the present volumes is shown by the fact that while in 1871 there were but 5,586 criminal cases pending in the United States courts and 8,187 terminated, in the year 1919 there were commenced 47,443 under the direction of the criminal division of the Department of Justice. This does not include prosecutions under the Food Bill, the Anti-Trust Act, and violations of the Wartime Prohibition Bill.

Equally interesting is the item of expense — the total cost of United States courts for the year ending June 30, 1920, is \$17,329,631.93. One dreadnaught costs \$22,000,000.

*A. M. Kidd.*

THE FINANCIAL ORGANIZATION OF SOCIETY. By Harold G. Moulton. The University of Chicago Press, Chicago, 1921. pp. xxiii, 789.

The purpose of the volume is indicated by the title. It is a description of the modern financial organization of society, the capitalistic system that has been built up in the nineteenth and twentieth centuries. It covers the various kinds of banks, trust companies, federal banks, mercantile documents, credit, foreign exchange, corporate organizations, stock exchange, bond houses, even taking up the consumptive credit institutions, pawn brokers, loan sharks, Morris Plan, co-operative credit unions, building and loan associations. The economic theory is stated in simple language, and there is a unity running through the whole arising from the fact that money as a unit of calculation is the measuring-rod of business and that the capitalistic system requires certain institutions for raising fixed capital and the commercial bank for working capital.

The purpose of the book is to describe the system as a whole, not to suggest any radical change. The complete exposition of the